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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,320	09/08/2003	Nicholas James Nissing	8652C	1187

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT PAPER NUMBER

1772

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,320

Applicant(s)

NISSING, NICHOLAS JAMES

Examiner

Patricia L. Nordmeyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Repeated Rejections

1. The 35 U.S.C. 102(b) rejection of claims 1 – 3, 5, 6, 8, 10, 12, 14 and 15 as anticipated by Mowry, Jr. et al. is repeated for the reasons previously of record in the paper dated March 10, 2004 as the Applicant's arguments are not persuasive.

2. The 35 U.S.C. 102(b) rejection of claims 1 – 3, 5 and 10 – 14 as anticipated by Brugada is repeated for the reasons previously of record in the paper dated March 10, 2004 as the Applicant's arguments are not persuasive.

3. The 35 U.S.C. 103 rejection of claims 4, 7 and 9 over Mowry, Jr. et al. in view of Harris is repeated for the reasons previously of record in the paper dated March 10, 2004 as the Applicant's arguments are not persuasive.

Response to Arguments

4. Applicant's arguments filed November 2, 2004 with regard to the 35 U.S.C. 102(b) rejection of claims 1 – 3, 5, 6, 8, 10, 12, 14 and 15 as anticipated by Mowry, Jr. et al. have been fully considered but they are not persuasive.

In response to Applicant's argument that no where does Mowry teach a third color density of ink should be applied to the substrate around print elements and the application of a

third density in the article would result in the activation of the security notification, it is noted

that the features upon which applicant relies (i.e., a third density of ink and the logarithmic relationship between the incident and reflected light) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim limitations are directed towards a substrate color density, a background color density and a print element color density, which do not state anything with regard the densities being directed towards ink. Three different densities are shown by Mowry through the use of dots, lines and spacing between the elements, which meet the limitations of claims since only color densities are claimed without reference to ink. The substrate is one color density while the ink around the dots and the ink of the dot itself form the other two color densities.

5. Applicant's arguments filed November 2, 2004 with regard to the 35 U.S.C. 102(b) rejection of claims 1 – 3, 8, and 10 – 14 as anticipated by Brugada have been fully considered but they are not persuasive.

In response to Applicant's argument that since the virgin security paper only comprises one color density and it does not anticipate the claims for the printed substrates of the present invention since there is no teaching to use three ink densities in printing an indicia upon a support, it is noted that the features upon which applicant relies (i.e., a third density of ink and the logarithmic relationship between the incident and reflected light) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations

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from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). The claim limitations are directed towards a substrate color density, a background color density and a print element color density, which do not state anything with regard the densities being directed towards ink being used for the density difference. Three different densities are shown by Brugada through the use of dots, lines and spacing between the elements, which meet the limitations of claims since only color densities are claimed without reference to ink. The substrate is one color density while the ink around the dots and the ink of the dot itself form the other two color densities.

6. Applicant's arguments filed November 2, 2004 with regard to the 35 U.S.C. 103 rejection of claims 4, 7 and 9 over Mowry, Jr. et al. in view of Harris have been fully considered but they are not persuasive.

In response to Applicant's argument that the combination of Mowry and Harris does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Applicant's claim limitation, Mowry and Harris do teach all of the claims as shown by the arguments presented above with regard to the densities of the background color, substrate and print element. Both Mowry and Harris are directed towards security documents, where Mowry uses different color densities and Harris uses a tactile surface profile.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia L. Nordmeyer
Examiner
Art Unit 1772

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Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

12/21/04